

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**5:19-CV-1635
(TJM/TWD)**

**KENNETH J. ROOF, CHRISTINA ROOF, a/k/a
Christina M. Elzinga, THE NEW YORK STATE
AFFORDABLE HOUSING CORPORATION,
SAMARATIN MEDICAL CENTER, ROSINA VANSELF,
JOHN DOE, MARY ROE, and XYZ CORPORATION,**

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

ORDER

Plaintiff United States of America filed a Complaint in the instant action on December 30, 2019. See dkt. # 1. The Complaint alleges that the Plaintiff United States of America, through the Rural Housing Service or its successor agency, the United States Department of Agriculture, lent Defendant Kenneth J. Roof \$100,250, to be repaid at 5.750% interest in monthly installments over a specified term. Id. at ¶ 2. Roof signed a promissory note, dated September 7, 2007. Id. at ¶ 3. Defendants Kenneth Roof and Christina M. Elzinga, a/k/a Christina Roof, executed, acknowledged, and delivered a mortgage as security for the loan on the same day. Id. at ¶ 4. The mortgaged premises were located at 15506 County Route 63, Adams Center, New York. Id. Plaintiff holds the

mortgage. Id. at ¶ 6. Defendants fell behind on their mortgage and property tax payments, and the United States had to make tax payments to protect its interests. Id. at ¶ 7. Because of those defaults, Plaintiff has decided to declare the entire sum secured by the mortgage due and payable. Id. at ¶ 8.

Plaintiff then filed the instant action, seeking foreclosure of the property and damages. Plaintiff served the Defendants, except for those identified as John Doe and Mary Roe and an unidentified company designated as "XYZ Corporation. See dkt. # 8. When the Defendants who were served failed to answer, the Plaintiff eventually filed a request for entry of Default. See dkt. # 16. The Plaintiff delayed filing the request for entry of default due to a pause in foreclosures caused by the COVID-19 pandemic. See dkt. # 12. When the United States found the property to be vacant, the Plaintiff requested entry of default. See dkt. # 14. The Clerk of Court entered default against the named Defendants. See dkt. # 17.

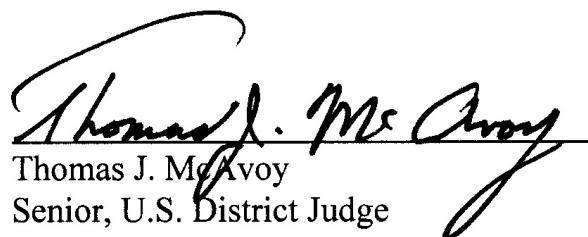
Plaintiff then filed a motion for default judgment, which is presently before the Court. See dkt. # 19. Plaintiff seeks a judgment of foreclosure and sale. Id. In a separate motion, Plaintiff also seeks dismissal of any claims against the unnamed parties.

The Court would normally grant the motion for default judgment and provide the relief Plaintiff requests. The named Defendants have not answered or otherwise responded to the Complaint. The Clerk has entered default against the Defendants. The amount sought is surely a sum certain. Plaintiff has provided a calculation of the amounts allegedly owed. See Schedule A to Plaintiff's Motion, dkt. # 19, at 146.¹ Unfortunately,

¹Page numbers are provided by the court's electronic docketing system.

the amounts listed in the Plaintiff's calculation are not clear and do not provide the Court with information necessary to determine whether the amount is appropriate. Plaintiff seeks \$141,904.76, but nothing in Schedule A explains that figure, and the Court has been unable replicate the calculations Plaintiff provides from the figures Plaintiff offers. Plaintiff includes, for instance, a "Negative Escrow" of \$15,954, as well as fees for property management and acquisition, but does not appear to add those figures into the amount sought. Plaintiff needs to lay out clearly and precisely how the Untied States arrives at the figure it seeks before the Court can award that amount.

The Court will therefore DENY Plaintiff's motion for default judgment, dkt. # 19, with leave to renew. Plaintiff's renewed motion should clarify how Plaintiff calculates the final amount sought. The Clerk Court is DIRECTED to dismiss any claims against Defendants John Doe, Mary Roe, and XYZ Corporation.



Thomas J. McAvoy
Senior, U.S. District Judge

IT IS SO ORDERED

Dated: April 5, 2021